

CIRCUIT COURT CLERKS' MANUAL RELEASE NOTES

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TO: Circuit Court Clerks

FROM: Marc Theriault, AOC General Counsel

DATE: August 31, 2015

IMPORTANT INFORMATION!

Please distribute this memo to each deputy in your office.

Release Notes serve as an “index” to the updated sections of the manual. It does not include the update in its entirety; therefore, it is very important and necessary that you and your employees go to each section of the manual set out in this memo and review the modifications. Please direct any questions regarding these updates to the Office of Legal Services at AOC.

Circuit Court Clerk Manual Modifications

Changes have been made throughout the manual for new legislation from the 2015 General Assembly session, newly enacted Juvenile Rules of Practice and Procedure, and other general revisions and updates.

Citations

Changes have been made throughout the citations chapter to reflect legislation (2015 SB 133) regarding ignition interlock licenses and devices.

Section 15.13 – DUI Citations

15.13.4: Updated to reflect a person who is subject to pretrial suspension may make application to the court for authorization to apply for an ignition interlock license and device. An ignition interlock application may be made at arraignment or any time thereafter. A pretrial order authorizing application for ignition interlock license and device must be sent **daily** to Drivers Licensing (DOT.)

15.13.8: A section has been added regarding post-acquittal ignition interlock application and order. An order authorizing ignition interlock license and device must be sent **daily** to DOT Drivers Licensing.

15.13.9: This section has been updated to include that a defendant may apply for an ignition interlock license upon conviction. An order authorizing the application for an ignition interlock license must be sent **daily** to DOT Drivers Licensing.

15.13.11: A section has been added regarding the return of a license plate when an application for authorization to apply for an ignition interlock license and device is granted at the same time the license plate is ordered impounded.

15.13.13: The prior section regarding installation of ignition interlock device has been deleted and replaced with ignition interlock license violations and amendments. Upon receipt of a notice of a violation file the document and schedule a hearing. Notify the defendant of the court date. Any amendments to the terms of a defendant's interlock license must be sent daily to DOT Driver Licensing.

Juvenile Cases

Changes have been made throughout the juvenile chapter to reflect the Juvenile Court Rules of Procedure and Practice (JCRPP).

Section 52.3 – Dependency, Neglect, Abuse

52.3.8: The following disposition codes have been removed from the disposition section.

- FEDP - Finding of Dependency
- FNEG – Finding of Neglect
- FABU – Finding of Abuse
- SDEP – Stipulate Dependency
- SNEG – Stipulate Neglect
- SABU – Stipulate Abuse

Section 52.5 – Status/Public Offenses

52.5.1: Updated to reflect case assignment and consolidation details.

- Upon receiving a status offense petition in a family court jurisdiction determine if the juvenile has a pending charge or charges in district court. If a pending charge or charges exist, open the status offense case in district court. Assign the status offense case to the district court division presiding over the pending public offense case. If no pending charge or charges exist in district court, open the status offense case in family court. KRS Chapter 635, KRS Chapter 640, JCRPP 2(D).
- If a public offense charge is filed that involves the same child in a pending status offense case, notify the family court judge of the public offense petition by completing AOC JV-54 (Notice of Filing of Public Offense Petition and Order Transferring to District Court) and deliver to the family court judge.

- Upon receipt of an order transferring a status offense case to the district division presiding over a public offense case, transfer the case and consolidate the status offense case with the public offense case for the purpose of hearing. JCRPP 2. **NOTE:** Transfer the case by reassigning to the appropriate judge. You **do not** need to complete a TRF disposition.
- In a non-family court jurisdiction, when a status offense is filed in district court that involves the same child in a pending public offense case, consolidate the status offense case with the public offense case for the purpose of hearing. JCRPP 2.
- Cases consolidated for the purposes of hearing as described above should be kept together to ensure future events are scheduled for same times.
 - If paper files are maintained within a single case jacket, file a copy of the order consolidating in the trailer number in the tab containing the status offense. Flag or otherwise indicate it is consolidated on the tab.
 - If physical files are maintained in separate case jackets, staple or band the case record being consolidated (secondary case) to the back of the senior action (primary case) and fold the older case record flap in. Place an out card in the location of the file that was consolidated (secondary case) noting the case number, case style and indicate the case has been consolidated per the entered order.
- If a status case is consolidated with a public offense case set the case for a hearing at the child's next scheduled public offense hearing, if the hearing is set to occur within 15 days; otherwise, set the case on the first available public offense docket of the district judge presiding over the case. Send notice of the hearing date to the parties in the public offense case. JCRPP 2.

52.5.4: Updated to reflect status and public offense petition and complaint forms/process.

- When receiving a JV-1 (Juvenile Petition) form you will also receive JW-57 (JV Complaint Status Offense) or JW-58 (JV Compliant Public Offense) forms. (Previously the complaint was included in the JV-1 form. JW-57 and JW-58 are new forms.)

Per FCRPP 5, the CDW will attach the citation with the petition.

The juvenile complaint may be submitted by the CDW which does not have all required signatures. You may nevertheless accept the complaint and use the information to create a case if one does not exist.

52.5.8: A new section on detention hearings has been added.

- If the juvenile is being detained and the child is alleged to be a status offender, schedule a detention hearing within 24 hours or within 48 hours if the child is alleged to be a public offender, exclusive of weekends and holidays, of the time the juvenile was taken into custody or follow local protocol for scheduling this hearing.

52.5.10: A new section “Informal Adjustment” has been added.

- Upon receipt of an informal adjustment order and agreement (AOC-JV-53), schedule a review as directed by the judge, or if not specified, for six months after the entry of the informal adjustment order. Close the charge screen using disposition type INF.

Section 52.6 – Habitual Runaway

A new section has been created per JCRPP 11 and JCRPP 12 regarding a habitual runaway. If a child cannot be released to a parent or is not otherwise placed the child qualifies as a habitual runaway, the peace officer shall initiate a complaint with the CDW to seek an ex parte emergency protective custody order from the court.

The section details how to process the new AOC form JV-52 (Complaint, Affidavit, and Order for Emergency Protective Custody). New document codes have been created to correspond with new forms JV-52 and JV 52.1 (Emergency Protective Custody Release Order) forms.

- **AEPC**: Affidavit/Complaint Emergency Protective Custody
- **OTEC**: Temporary emergency custody to a relative or other suitable person
- **ODN**: Temporary detention in a non-secure facility
- **OSEC**: Temporary detention in a secure facility
- **OREL**: Emergency Protective Custody Release Order

Medical Records

Formerly titled “Medical Records to Be Used in a Deposition,” this chapter has been renamed in order to address other substance abuse test records that may be sealed pursuant to a new section of KRS 625.010(6) that was enacted in 2015 SB 192 and 2015 SB 54.

Section 54.1 – Substance Abuse Test Records

A new section on substance abuse records has been added. Upon receipt of an application to seal records relating to a positive substance abuse test deliver the application to the judge. If ordered sealed, seal the records as directed and do not release the sealed envelope from your custody. If a request to review the case file is received, remove the sealed envelope from the case file.

Appeals

Section 4.1.1 - Petition for Review

An exception has been added stating that a petition for review of a local policy disciplinary action is filed in circuit court. KRS 15.520.

Adoptions

Section 1.5.2 – Sealing the File

The exception that a representative of the CHFS may open and inspect a sealed adoption without a written order has been deleted.

Probate

The Department of Revenue Inheritance and Estate Tax Area's address as been updated throughout this chapter. The address is: Department of Revenue Inheritance and Estate Tax Area, Station 61, 501 High Street, Frankfort, KY 40601-2103.

Unsatisfied Civil Judgement Involving a Motor Vehicle Accident

This chapter has been updated to reflect that Form TC 94-65 may be mailed to the plaintiff's attorney and to the defendant by first class mail rather than by certified mail.

Forms

Ignition Interlock License and Device Forms

<u>Form Number</u>	<u>Form Name</u>
495.4	Pretrial Application for Authorization to Apply for an Ignition Interlock License and Device
495.5	Pretrial Order Authorizing Application for Ignition Interlock License and Device
495.8	Financial Statement, Affidavit of Indigency, Request for Reduced Ignition Interlock Device Costs
495.9	Order Amending Ignition Interlock License
495.10	Post-Acquittal Application for Authorization to Apply for an Ignition Interlock License and Device
495.11	Order Upon Acquittal Authorizing Ignition Interlock License and Device
495.12	Application to Court Upon Conviction for Authorization to Apply for an Ignition Interlock
495.13	Order Upon Conviction Authorizing Application for Ignition Interlock License and Device

Juvenile Forms

Below is a list of updated and/or new forms created pursuant to the new Juvenile Court Rules of Procedure and Practice (JCRPP.)

<u>Form Number</u>	<u>Form Name</u>
JV-1	Juvenile Petition
JV-1.1	Notification of Charge Juvenile Petition
JV-15	Temporary Custody Order (Status Offenses)
JV-16	Order for Medical Examination or Treatment of Juvenile
JV-17	Juvenile Summons UPDATED in KYCOURTS
JV-18	Promise to Appear in Juvenile Proceeding
JV-19	Juvenile Summons for Witnesses UPDATED in KYCOURTS
JV-28	Youthful Offender Transfer Hearing Order
JV – 31	Disposition Order Status Offense
JV- 31.1	Disposition Order Public Offense
JV – 34	Juvenile Detention Order for Public Offense
JV -35	Juvenile Detention Order for Status Offense
JV-36	Pre-Adjudicative Court Ordered Terms (Status Offenses)
JV-36.1	Pre-Adjudicative Court Ordered Terms (Public Offenses)
JV-48	Order Appointing Public Defender Under KRS Chapters 630 or 635

JV-49	Notice of Juvenile Rights and Consequences for Status Offenders
JV-50	Adjudication Order
JV-51	Admission or Confession and Waiver of Formal Adjudication Hearing
JV-52	Complaint, Affidavit, and Order for Emergency Protective Custody of a Child Suspected of Being a Habitual Runaway
JV-52.1	Emergency Protective Custody Release Order (Suspected Habitual Runaway)
JV-53	Informal Adjustment Order and Agreement
JV-53.1	Informal Adjustment Review and Order
JV-54	Notice of Filing of a Public Offense Petition in District Court and Order of Transfer
JW-57	Juvenile Complaint (Status Offense)
JW-58	Juvenile Complaint (Public Offense)